

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

DAVITA M. KEY,)
)
Plaintiff,)
)
v.) CIVIL ACT. NO. 2:19-cv-767-ECM
)
HYUNDAI MOTOR MANUFACTURING,)
ALABAMA, LLC, *et al.*,)
)
Defendants.)

DEFENDANT DYNAMIC SECURITY, INC.'S OBJECTIONS TO
PLAINTIFF'S EXHIBIT LIST

Defendant Dynamic Security, Inc.'s ("Dynamic") hereby submits Objections to Plaintiff's Exhibit List (doc. 102) in compliance with the Uniform Scheduling Order (doc. 51) entered November 19, 2021, as amended by the Court's Order entered March 28, 2022. (Doc. 57).

Dynamic reserves the right to supplement, modify or withdraw any of the objections made herein. In addition, Dynamic reserves the right to object to the limited admissibility of any exhibit and to interpose objections to any exhibit that may have previously been identified as exhibits by Plaintiff based on pretrial rulings and rulings during the course of the trial and to object to any exhibit not identified by witnesses at trial. Finally, Dynamic reserves the right to interpose a specific

objection at trial to any exhibit that was not previously identified by Plaintiff or was inaccurately described.

Defendant Dynamic incorporates herein all objections to Plaintiff's Exhibit List asserted by Defendants HMMA and HEA.

Dynamic's Objections to Exhibits Plaintiff Expects to Offer at Trial¹

Exhibit Number	Exhibit Description	Bates numbers	Objections to Exhibits
Exhibit 1	Dynamic Security Paycheck	Key 001	
Exhibit 2	Photos of Plaintiff's Hairstyle	Key 271-276	Relevancy - FRE ² 401, 402 The Eleventh Circuit has held that dreadlocks are not an immutable characteristic associated with race but are a mutable hairstyle choice. <i>EEOC v. Catastrophic Management Solutions</i> , 852 F.2d 1018 (11 th Cir. 2016). Therefore, pictures of Plaintiff's dreadlocks are not relevant to her race discrimination termination claim.

¹ Defendant Dynamic incorporates herein all objections asserted by Defendants HMMA and HEA to Plaintiff's Exhibit List.

² Federal Rules of Evidence

			FRE 401, 402. Pictures would also serve to unfairly prejudice Dynamic, confuse the issues, and mislead the jury because dreadlocks, regardless of how styled, is not an immutable trait associated with race. FRE 403.
Exhibit 3	HMMA Service Contract	HMMA 013-076	
Exhibit 4	HMMA Mailroom Site Map	HMMA 077	
Exhibit 5	Appearance Standards for Security Personnel	HEA 001-003	
Exhibit 6	Appearance Standards for Security Contractors	HEA 163-166	
Exhibit 7	HEA Organization Chart	HEA 167	
Exhibit 8	HMMA Mailroom Duties and Responsibilities	HEA 194-195	
Exhibit 9	Mailroom Employee Uniform Photo	HEA 205	
Exhibit 10	Email Between Robinson and Key Re: Interview	Key 1049-1050	Hearsay –FRE 801(c), 802
Exhibit 11	Email Between Robinson and Key Re: Interview Time	Key 251-253	Hearsay –FRE 801(c), 802
Exhibit 12	Email from Robinson to Key Offering Position	Key 254-255	

Exhibit 13	Key Statement to Unemployment	S0093-00096	Hearsay – FRE 801(c), 802 as to S0093-0094 and S0095-0096 Relevancy - FRE 401, 402
Exhibit 14	Dynamic Unemployment Denial	S0049	Hearsay – FRE 801(c), 802 Relevancy – FRE 401, 402
Exhibit 15	September/October 2017 Email between Gloria Robinson, Jazemen Baxter, and Cassandra Williams RE: styled hair	HEA 206-212	Hearsay – FRE 801(c), 802 Relevancy – FRE 401, 402
Exhibit 16	E-mail 8/2/17 between Cureton, Robinson and others asking Key not to return to site for hair	Dynamic-Key 31	
Exhibit 17	Key Handwritten Internal Complaint	Dynamic-Key 32	Hearsay –FRE 801(c), 802 Prejudicial – FRE 403
Exhibit 18	Robinson Removal Memorandum	Dynamic-Key 33-35	Hearsay –FRE 801(c), 802
Exhibit 19	Dynamic Statements RE: Key 8/14/17	Dynamic-Key 36-37	
Exhibit 20	E-mail 8/8/17 Between Cureton, Spires, and others with Key Internal	Dynamic-Key 054-055	Hearsay - FRE 801(c), 802

	Complaint Dynamic-Key 054-55		
Exhibit 21	E-mail 8/8/17 Between Cureton and HR with Statement Attached	Dynamic-Key 056-057	To the extent Plaintiff attempts to incorporate statement from Ex. 22: Hearsay – FRE 801(c), 802 Prejudicial – FRE 403
Exhibit 22	Key 8/8/17 Statement to Dynamic Security HR	Dynamic-Key 058-063	Hearsay – FRE 801(c), 802 Prejudicial – FRE 403
Exhibit 23	Key Removal from Hyundai – Discipline Report	Dynamic-Key 064	
Exhibit 24	Latunya Howell Statement	Dynamic-Key 067	Hearsay - FRE 801(c), 802
Exhibit 25	E-mail 8/7/17 Between Cureton, Spires, others Notifying of Threats to Sue	Dynamic-Key 069-070	Hearsay – FRE 801(c), 802 Relevancy – FRE 401, 402 Probative value substantially outweighed by danger of unfair prejudice, confusing the issues, misleading the jury, and/or undue delay. FRE 403.
Exhibit 26	E-mail 8/1/17 between Cureton, Robinson,	Dynamic-Key	Hearsay - FRE

	Spires, and others Regarding Reason for Removal	073-77	801(c), 802
Exhibit 27	E-mail 8/1/17 Cureton, Williams, and Others	HEA 168-172	Hearsay – FRE 801(c), 802
Exhibit 28	E-mail between Robinson, Hargrove and others Concerning Pregnancy and Hair including Return to Work Note	Dynamic-Key 078-081	Hearsay – FRE 801(c), 802
Exhibit 29	E-mail Dynamic Transmittal to HR with Complaint	Dynamic-Key 082-084	Hearsay – FRE 801(c), 802 Probative value substantially outweighed by danger of unfair prejudice, confusing the issues, misleading the jury, and/or undue delay. FRE 403.
Exhibit 30	E-mail 7/31/17 Robinson to Hargrove and others Concerning Recourse for Not Reporting Pregnancy	Dynamic-Key 085-087	Hearsay – FRE 801(c), 802
Exhibit 31	E-mail 8/11/17 Notice of EEOC Charge to Dynamic	Dynamic-Key 3224-3226	
Exhibit 32	E-mail 8/11/17 Spires, Cureton, and others Concerning EEOC Response	Dynamic-Key 3227-3230	Hearsay -FRE 801(c), 802 Probative value substantially outweighed by danger of unfair prejudice, confusing the issues, misleading

			the jury, and/or undue delay. FRE 403.
Exhibit 33	E-mail 8/11/17 Spires, Cureton, and others Concerning Work Verification of Key for Government Benefits	Dynamic-Key 3233-3239	Hearsay – FRE 801(c), 802 Relevancy – FRE 401, 402
Exhibit 34	E-mail 8/22/17 Spires, Cureton and Others Concerning Unemployment	Dynamic-Key 3241-3245	Hearsay – FRE 801(c), 802 Relevancy – FRE 401, 402
Exhibit 35	E-mail 8/29/17 Spires, Cureton and Others Concerning Unemployment Rebuttal	Dynamic-Key 3248-3251	Hearsay – FRE 801(c), 802 Relevancy – FRE 401, 402
Exhibit 36	E-mail 11/13/18 Williams, Spires, and others Concerning Dynamic EEOC Charge and Notice of HMMA Charge	HEA 173-176	Hearsay – FRE 801(c), 802 Relevancy – FRE 401, 402
Exhibit 37	E-mail 11/13/18 Williams, Spires, and others Concerning Dynamic EEOC Charge and Notice of HMMA Charge	Dynamic-Key 3280-3282	Hearsay – FRE 801(c), 802 Relevancy – FRE 401, 402
Exhibit 38	Assignment Refusal Forms	Dynamic-Key 029-030	

Dynamic's Objections to Exhibits the Plaintiff May Offer³

Exhibit Number	Exhibit Description	Bates Numbers	Objections to Exhibits
Exhibit 1	Various E-mails for Job Searches	Key 131-248	Hearsay – FRE 801(c), 802 Relevancy – FRE 401, 402
Exhibit 2	HMMA Safety Manual	Key 277-331	
Exhibit 3	Dynamic Security Officer's Handbook	Dynamic-Key 1-27	
Exhibit 4	Hyundai Employee Handbook	HEA 4-48	
Exhibit 5	2017 Tax Return	Key 386-390	
Exhibit 6	2018 Tax Return	Key 391-394	
Exhibit 7	2019 Tax Return	Key 395-401	
Exhibit 8	2020 Tax Return	Key 402-406	
Exhibit 9	2021 W-2 Kelly Services	Key 407	
Exhibit 10	2021 W-2 Pike Road	Key 408	
Exhibit 11	HMMA EEOC Determination		Hearsay - FRE 801(c), 802 Relevancy - FRE 401, 402, with regard to any determination implying complaints about dreadlocks are protected activity. See <i>EEOC v. Catastrophic Management Solutions</i> , 852 F.2d 1018 (11 th Cir. 2016).

³ Defendant Dynamic incorporates herein all objections asserted by Defendants HMMA and HEA to Plaintiff's Exhibit List as to Exhibits Plaintiff may offer.

Exhibit 12	EEOC Notice of Failed Conciliation	F003-004	
Exhibit 13	HMMA Notice of Right to Sue	F005	
Exhibit 14	HMMA EEOC Charge and Intake Questionnaire	F007-016	Hearsay - FRE 801(c), 802, with regard to the statements by Plaintiff in the body of the Intake Questionnaire and with regard to the two statements written by Plaintiff that she attached to the Intake Questionnaire Prejudicial – FRE 403
Exhibit 15	EEOC Charge Dynamic Security	Dynamic-Key 046-047	Hearsay - FRE 801(c), 802 Plaintiff's EEOC Charge against Dynamic contains inadmissible hearsay to the extent Plaintiff intends to use it or any statement by another person included therein (double hearsay) to prove the truth of the matter asserted. FRE 801(c), FRE 802. Further, Dynamic's EEOC Charge is not relevant to Plaintiff's purported claim that Dynamic terminated her employment because the Charge did not allege that Dynamic terminated her employment or took any adverse employment action against her. Thus, the Charge can have "no tendency to make [it] more or less

			<p>probable” that Dynamic terminated her employment “than it would be without the evidence” FRE 401(a) and (b).</p> <p>Even if relevant, the court should exclude with regard to Plaintiff’s termination claim on grounds that its “probative value is substantially outweighed by a danger of . . . unfair prejudice,” FRE 403, because Plaintiff’s presentation to the jury of her Charge would imply that it is probative of Dynamic’s reasons for terminating her employment when she does not have a termination claim against Dynamic, and the evidence shows Dynamic did not terminate her employment. Admission of the EEOC Charge against Dynamic would thus confuse the issues and mislead the jury as to its significance. FRE 403</p> <p>Plaintiff’s EEOC Charge against Dynamic should also be excluded on the additional ground that such evidence is irrelevant and immaterial because the trial is a de novo proceeding. FRE 401, 402</p> <p>Prejudicial – FRE 403</p>
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Exhibit 16	Dynamic Security Notice of Right to Sue	Dynamic-Key 044	
Exhibit 17	EEOC Letter to HMMA Finding Retaliation	F02	
Exhibit 18	HMMA Position Statement	F027-48	
Exhibit 19	Dynamic Security Position Statement	HEA 053-056	<p>Dynamic's position statement contains inadmissible hearsay to the extent Plaintiff intends to use it or any statement by another person included therein (double hearsay) to prove the truth of the matter asserted. FRE 801(c), FRE 802.</p> <p>Further, Dynamic's position statement is not relevant to Plaintiff's purported claim that Dynamic terminated her employment. Dynamic's position statement was written in response only to the allegations included in her Charge. Plaintiff's Charge did not allege that Dynamic terminated her employment; thus Dynamic's position statement was not prepared in response to any allegation that Dynamic terminated her employment, and it can have "no tendency to make [it] more or less probable" that Dynamic terminated her employment "than it would be without the evidence" FRE</p>

			<p>401(a) and (b).</p> <p>Even if relevant, the court should exclude with regard to Plaintiff's termination claim on grounds that its "probative value is substantially outweighed by a danger of . . . unfair prejudice," FRE 403, again, because the position statement was not in response to Plaintiff's Charge against HMMA in which she alleged HMMA terminated her employment. Rather, it was prepared only in response to Plaintiff's Charge against Dynamic in which she did not allege Dynamic terminated her employment or engaged in any adverse employment action against her that would satisfy any prima facie case for any claim included in her Complaint, as amended.</p> <p>Plaintiff's presentation to the jury of Dynamic's position statement would imply that Dynamic's response is probative of Dynamic's reasons for termination, when she does not have a termination claim against Dynamic, and the evidence shows Dynamic did not terminate her employment. Admission of Dynamic's position statement would thus confuse the issues and</p>
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			<p>mislead the jury as to the significance of the position statement. FRE 403</p> <p>Dynamic's position statement to the EEOC should also be excluded on the additional ground that such evidence is irrelevant and immaterial since the trial is a de novo proceeding. FRE 401, 402.</p> <p><i>See Davis v. Infinity Ins. Co., Inc.</i>, Case No.: 2:15-cv-01111-JHE, 2021 WL 1208761 *19 (N.D. Ala. March 31, 2021) ("[T]he EEOC [position] statement is not evidence."); <i>Gage v. Metropolitan Water Reclamation District of Greater Chicago</i>, 365 F. Supp. 2d 919 (N.D. Ill. April 14, 2005) (granting the defendant's motion in limine to exclude evidence because "statements made to the EEOC do not carry significance independent of possible impeachment").</p>
Exhibit 20	Various E-mails between Plaintiff and EEOC investigators concerning pending charge	Key 093-113	Hearsay - FRE 801(c), 802
Exhibit 21	HMMA Handbook Excerpts / Team Member Conduct	HMMA 001-00	
Exhibit 22	Prior EEOC Charges	HMMA 078-	

		134	
Exhibit 23	HMMA Contractor Safety Book	HMMA 135-235	
Exhibit 24	E-mails and Letter Regarding HMMA Notice of Charge and HEA Indemnification Requirement	HMMA 236-245	With regard to the EEOC Charge against Dynamic reasserts the same objection
Exhibit 25	E-mails Regarding Dynamic Charge to HEA	HMMA 246-249	Relevancy - FRE 401, 402 Hearsay - FRE 801(c), 802
Exhibit 26	E-mails Regarding Dynamic Charge Status to HEA	HMMA 250-251	Relevancy - FRE 401, 402 Hearsay - FRE 801(c), 802
Exhibit 27	Security Detail Reports dated 7/19/17, 7/21/17, 7/24/17, 7/31/17, 8/1/17, 8/29/17	HMMA 355-356, 360-362, 368-371, 393-398, 467-471	Relevancy - FRE 401, 402 Hearsay - FRE 801(c), 802
Exhibit 28	HMMA Teammember Handbook	HMMA 511-54	
Exhibit 29	HEA Letter Extending Service Contract	HMMA 543	
Exhibit 30	Cassandra Williams Employment Agreement with HEA	HEA 196-20	
Exhibit 31	E-mail between Williams and Yu RE: appearance standards and meeting with contractor	HEA 213-214	Hearsay - FRE 801(c), 802
Exhibit 32	E-mail Between Whitehead and Dynamic Concerning Cause	HEA 215-216	Hearsay - FRE 801(c), 802 Relevancy – FRE 401, 402

	Finding for HMMA		
Exhibit 33	E-mail dated 5/8/19 between Whitehead and Williams regarding Declaration	HEA 217-218	
Exhibit 34	Security Invoices and Subcontractor Request for Payment 8/2/17	HEA 219-224	
Exhibit 35	HMMA Policy Regarding Appearance 2004	HEA 247-251	
Exhibit 36	Unexecuted Contract for Services Between Dynamic and HEA	HEA 252-278	
Exhibit 37	Dynamic Security Harassment Powerpoint	Dynamic-Key 093-111	
Exhibit 38	Dynamic Security EEOC Powerpoint	Dynamic-Key 112-139	
Exhibit 39	Dynamic Security Rules and Regulations	Dynamic-Key 38-39	
Exhibit 40	Dynamic Security Discipline Guidelines	Dynamic-Key 40	
Exhibit 41	Dynamic Security Harassment Policy	Dynamic-Key 4	Relevancy, FRE 401, 402. Dynamic Security's Harassment Policy is not relevant to Plaintiff's claims, as she has no claim against Dynamic for harassment
Exhibit 42	Key Acknowledgment of Handbook Receipt	Dynamic-Key 41	

Exhibit 43	E-mail 8/1/1 Cureton to Dynamic Security Regarding Key Internal Complaint	Dynamic-Key 143-144	Hearsay - FRE 801(c), 802 Relevancy - FRE 401, 402 Probative value substantially outweighed by danger of unfair prejudice, confusing the issues, misleading the jury, and/or undue delay. FRE 403. Prejudicial – FRE 403
Exhibit 44	E-mail 8/10/17 Between Cureton, Spires and others Regarding Key current complaint status and placements	Dynamic-Key 3220-3223	Hearsay - FRE 801(c), 802 Relevancy - FRE 401, 402 Probative value substantially outweighed by danger of unfair prejudice, confusing the issues, misleading the jury, and/or undue delay. FRE 403. Prejudicial – FRE 403
Exhibit 45	E-mail 8/29/17 Cureton RE: Unemployment Rebuttal	Dynamic-Key 140-141	Hearsay - FRE 801(c), 802 Relevancy - FRE 401, 402
Exhibit 46	E-mail Re: Difficulty Filling Mailroom Positions	Dynamic-Key 145	Hearsay -FRE 801(c), 802 Relevancy - FRE 401, 402. Email communications in February 2017, which was six months prior to Plaintiff's application for a security position in the mailroom at HMMA, are not relevant to Plaintiff's claims that she was discriminated against in

			August 2017.
Exhibit 47	Dynamic Security AA&EEOC Policies	Dynamic-Key 270-283	
Exhibit 48	Security Officer Job Description	Dynamic-Key 284	
Exhibit 49	E-mail 12/11/16 Between Williams and Hargrove Concerning Pay Raises	Dynamic-Key 289-293	Hearsay - FRE 801(c), 802 Relevancy - FRE 401, 402 Emails in 2016 regarding pay raises are not relevant to Plaintiff's claims based on alleged events in July and August 2017.
Exhibit 50	Gloria Robinson Resume	Dynamic-Key 428-431	Hearsay -FRE 801(c), 802 Relevancy, FRE 401, 402
Exhibit 51	Gloria Robinson Employment Discipline or Complaints	Dynamic-Key 464-468	Hearsay - FRE 801(c), 802 Relevancy - FRE 401, 402 Disciplinary actions against Robinson in February 2018 and the three statements by other Dynamic employees attached to the disciplinary document are inadmissible hearsay, and they are not relevant to whether Dynamic violated Plaintiff's rights under Title VII or 42 U.S.C. § 1981 in August 2017. Prejudicial – FRE 403
Exhibit 52	Any document necessary for rebuttal and/or		

	impeachment		
Exhibit 53	Without conceding the admissibility of any exhibit identified on the Defendants' exhibit lists or waiving any objections, Plaintiff reserves the right to use any non-objectionable exhibit identified on the Defendants' exhibit lists.		

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies that on 9th day of February, 2023, he electronically filed a true and correct copy of the foregoing with the Clerk of Court using the CM/ECF System which will send notification of such filing to:

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